

104TH CONGRESS  
1ST SESSION

# H. R. 1983

To provide that certain hearings functions of the Merit Systems Protection Board be performed only by administrative law judges, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1995

Mr. GEKAS introduced the following bill; which was referred to the Committee on Government Reform and Oversight

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## A BILL

To provide that certain hearings functions of the Merit Systems Protection Board be performed only by administrative law judges, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Merit Systems Protec-  
5       tion Board Administrative Judges Protection Act of  
6       1995”.

7       **SEC. 2. FINDINGS AND PURPOSES.**

8       (a) FINDINGS.—The Congress finds that—

9               (1) administrative law judges and other admin-  
10       istrative judges who preside over agency proceedings,

1 many of which are of an adversarial nature, must be  
2 able to maintain their impartiality in order to per-  
3 form their duties effectively;

4 (2) administrative law judges appointed under  
5 section 3105 of title 5, United States Code, are re-  
6 quired to be assigned to cases in rotation, are enti-  
7 tled to pay independent of agency recommendations  
8 or ratings, and are not subject to agency perform-  
9 ance appraisals under chapter 43 of title 5, United  
10 States Code;

11 (3) because of such protections, administrative  
12 law judges may perform their judicial functions inde-  
13 pendently of influence from their agencies; and

14 (4) administrative judges of the Merit Systems  
15 Protection Board, who lack such protections, may  
16 not be able to act as impartially as administrative  
17 law judges.

18 (b) PURPOSE.—It is the purpose of this Act to pro-  
19 vide that certain hearing functions of the Merit Systems  
20 Protection Board be performed only by administrative law  
21 judges, in order to ensure the impartiality of individuals  
22 presiding over administrative proceedings.

1 **SEC. 3. ADMINISTRATIVE JUDGES OF MERIT SYSTEMS PRO-**  
2 **TECTION BOARD.**

3 (a) IN GENERAL.—Section 1204(b) of title 5, United  
4 States Code, is amended—

5 (1) in paragraph (1)—

6 (A) by striking “, any administrative” and  
7 inserting “and any administrative”; and

8 (B) by striking “, and any employee of the  
9 Board designated by the Board”; and

10 (2) in paragraph (2)—

11 (A) by striking “, any administrative” and  
12 inserting “and any administrative”; and

13 (B) by striking “, and any employee of the  
14 Board designated by the Board”.

15 (b) STATUS OF EXISTING JUDGES.—Any employee  
16 designated on or before October 1, 1998, by the Merit Sys-  
17 tems Protection Board under paragraph (1) or (2) of sec-  
18 tion 1204(b) of title 5, United States Code, to perform  
19 functions described in either such paragraph who has reg-  
20 ularly performed such functions for at least one year and  
21 who meets the Office of Personnel Management’s criteria  
22 for the position of administrative law judge, shall be  
23 deemed to be an administrative law judge appointed by  
24 the Merit Systems Protection Board under section 3105  
25 of title 5, United States Code, immediately upon complet-  
26 ing the required years of experience. No such employee

- 1 shall suffer a loss in grade, status, pay, or position as the
- 2 result of any action taken pursuant to this subsection.

